



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2020-0092; Notice 1]

Michelin North America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Michelin North America, Inc. (MNA) has determined that certain Michelin CrossClimate SUV replacement tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. MNA filed a noncompliance report dated July 31, 2020, and subsequently petitioned NHTSA on August 21, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of MNA's petition.

DATES: Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to https://www.regulations.gov, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at https://www.regulations.gov by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477-78).

SUPPLEMENTARY INFORMATION:

I. Overview:

MNA has determined that certain Michelin CrossClimate SUV replacement tires do not fully comply with the requirements of paragraphs S5.5(e) and (f) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139). MNA filed a noncompliance report dated July 31, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. MNA subsequently petitioned NHTSA on August 21, 2020, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of MNA's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Tires Involved:

Approximately 884 Michelin CrossClimate SUV replacement tires, size 235/55R17 99V, manufactured between October 20, 2019, and November 30, 2019, are potentially involved.

III. Noncompliance:

MNA explains that the noncompliance is due to a mold error and that as a result, the number of tread plies indicated on the sidewall of the subject tires does not match the actual number of plies in the tire construction as required by paragraphs S5.5(e) and (f) of FMVSS No. 139. Specifically, the tires were marked "Tread Plies: 2 Polyester + 2 Steel + 1 Polyamide; Sidewall: 2 Polyester" when they should have been marked "Tread Plies: 1 Polyester + 2 Steel + 1 Polyamide; Sidewall: 1 Polyester."

IV. Rule Requirements:

Paragraphs S5.5(e) and (f) of FMVSS No. 139 include the requirements relevant to this petition. Each tire must be marked on each sidewall with the information specified in paragraphs S5.5(a) through (d) and on one sidewall with the information specified in paragraphs S5.5(e) through (i) according to the phase-in schedule specified in paragraph S7 of FMVSS No. 139. Specifically, each tire should be marked with the generic name of each cord material used in the plies (both sidewall and tread area) of the tire and the actual number of plies in the sidewall, and the actual number of plies in the tread area, if different.

V. Summary of MNA's Petition:

The following views and arguments presented in this section, "V. Summary of MNA's Petition," are the views and arguments provided by MNA. They have not been evaluated by the Agency and do not reflect the views of the Agency. MNA describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, MNA submitted the following reasoning:

1. Operational Safety

- a. Tire performance—MNA says that the subject tires have been designed as a single ply construction. The mismarked tires have been manufactured according to the design specification. These tires fully comply with MNA performance requirements as well as with all applicable FMVSS tire safety performance standards and related requirements.
- b. Tire application—MNA claims that the mismarked ply information has no direct impact on tire application. The tires are properly marked with all other FMVSS required information including the tire size designation, maximum load, and maximum inflation pressure. These markings provide both dealers and consumers with the necessary information to ensure proper selection and application of the tires.
- c. Tire repair and retread—MNA also says that concerns related to the safety

of tire repair and retread personnel have been previously raised for filings involving steel carcass ply tires. The CrossClimate SUV is a passenger car, sport utility, and light truck tire line with a polyester carcass. The tire is not intended for retreading. The concern for service personnel related to steel carcass construction is not relevant for this tire line.

2. Corrective Measures

- a. Upon identification of the mismarking, MNA instituted a block on the affected sku. A total of 782 tires were captured and retained in MNA inventory. These tires will be repaired to display the correct single ply marking, or they will be scrapped.
- b. The tire specification drawing has been corrected and the mold plate has been updated to show the correct single ply marking. All tires currently being produced have the correct marking.

3. Prior NHTSA Decisions

MNA states that NHTSA has concluded in other petitions related to the number of plies marking that this type of noncompliance is inconsequential to safety.

Examples of prior decisions include:

- Sumitomo Rubber Industries, Ltd., 83 FR 13002 (March 26, 2018)
- Continental Tire the Americas, LLC, 83 FR 36668 (July 30, 2018)
- Cooper Tire & Rubber Company, 82 FR 17075 (April 7, 2017)
- Hankook Tire America Corp., 79 FR 30688 (May 28, 2014)
- Bridgestone Americas Tire Operations, LLC, 78 FR 47049 (August 2, 2013).

MNA concludes by again contending that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification

of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject tires that MNA no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after MNA notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

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